

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

LANICA LATRICE RAY,

Plaintiff,

vs.

SALISH KOOTENAI COLLEGE,

Defendant.

CV 19-134-M-DLC-KLD

ORDER

United States Magistrate Judge Kathleen L. DeSoto entered her Findings and Recommendation on February 10, 2020, recommending that the Court: (1) dismiss Ray's complaint for failure to state claim upon which relief may be granted; and (2) certify that no appeal from this disposition could be taken in good faith. (Doc. 7.) Ray failed to timely object to the Findings and Recommendation, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149–53 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been made.” *Wash. Mut., Inc. v. United States*, 856 F.3d 711, 721 (9th Cir. 2017) (citation omitted).

In her Order of November 7, 2019, Judge DeSoto found that Ray had not plausibly alleged that Salish Kootenai college violated federal antidiscrimination law when it failed to return tuition payments after Ray was expelled. (Doc. 6.) However, Judge DeSoto gave Ray the opportunity to amend her complaint to explain her disability and how it factored into her expulsion. (*Id.*) Ray did not file an amended pleading. The Court finds no clear error in the determination that Ray failed to plausibly allege a cause of action under federal antidiscrimination law in her original complaint. Because Ray did not avail herself of the opportunity to correct the deficiencies identified by Judge DeSoto, the Court agrees with the recommendation to dismiss the complaint.

Accordingly, IT IS ORDERED:

- (1) Judge DeSoto's Findings and Recommendation (Doc. 7) is ADOPTED in full;
- (2) The complaint is DISMISSED for failure to state a claim upon which relief may be granted;
- (3) The Clerk of Court shall enter, by separate document, a judgment of dismissal; and
- (4) the Court certifies, pursuant to Federal Rule of Appellate Procedure 24(a)(4)(B), that any appeal from this dismissal would not be taken in good faith.

DATED this 16th day of April, 2020.



Dana L. Christensen
District Judge
United States District Court